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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Gas Company (U 904 G), San Diego Gas & Electric Company (U 902 M) and Southern California Edison Company (U 338 E) for Approval of Changes to Natural Gas Operations and Service Offerings.

Application 06-08-026  
(Filed August 28, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING MOTION FOR FINAL ORAL ARGUMENTS**

On July 27, 2007, Coral Energy Resources, L.P. (Coral) filed a motion seeking final oral argument before a quorum of the Commission in this proceeding. Coral argues that its request should be granted as a matter of right under Rule 13.13 and Public Utilities Code Sec. 1701.3(d). Coral believes that oral argument will be helpful due to the complexity of many of Applicants' structural proposals and will provide the presiding judge and the Commissioners an opportunity to examine the interrelationship of the structural proposals and to inquire into alternatives that have been advanced by the parties.

Southern California Gas Company and San Diego Gas & Electric Company, (Applicants), filed an opposition on August 20, 2007, to Coral's motion. Applicants disagree with Coral's claim that Pub. Util. Code Sec. 1701.3(d) obligates the Commission to grant oral argument at this stage of the proceeding as a matter of right. Applicants believe that the record in the proceeding is clear and adequate as a basis for a Commission decision without any need for presentation of oral arguments.

Applicants also raise concerns that the oral argument planned by Coral is likely to confuse the issues, and potentially lead to the introduction of improper argument to the full Commission. Applicants believe that Coral seeks oral argument as a forum to introduce issues regarding SoCalGas' supposed market power that were in the Border Price Spike OII but that are not part of the record here. Although Coral elicited cross examination from Edison witness Pickett regarding portions of Edison's briefs in the Border Price Spike OII, Coral was not permitted to move into evidence the Border Price Spike OII briefs, themselves, as part of the record in this proceeding.

Applicants state that they are not asking for any Commission determinations with respect to market power, and that the application should be decided solely upon the merits of Applicants' proposals. Applicants raise concerns that oral argument would allow Coral the opportunity to present Border Price Spike OII claims and arguments regarding SoCalGas' supposed market power in a context that would be difficult for the Commission to sort out as to what is properly before it.

## **Discussion**

As a basis for its motion, Coral argues that its request should be granted as a matter of right pursuant to Public Util. Code Sec. 1701.3(d). This statutory provision applies where the Commission has determined that a ratesetting proceeding requires hearings. That determination applies this proceeding. Pub. Util. Code Sec. 1701.3(d) states:

"Any party has the right to present a final oral argument of its case before the commission. Those requests shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments."

Although Applicants oppose Corals' request for oral arguments, they provide no legal basis to claim that Sec. 1701.3(d) provides no right for Coral, or other parties, to present final oral argument before the Commission. Consistent with the requirements of Sec. 1701.3(d), therefore, Coral's motion for oral argument is granted.

Applicants' concern that Coral may introduce extra-record material in its oral argument is no basis to deny Coral's rights to present oral argument. Instead, the appropriate way to address such concern is to set appropriate ground rules for the oral arguments. Accordingly, oral arguments shall be limited in scope to the record in this proceeding. Parties shall be prohibited from introducing additional factual materials beyond the record in presenting final oral arguments.

More specifically, Applicants seek to exclude the issue of SoCalGas' supposed market power from consideration as a basis for evaluating the merits of its proposals. Yet, opposing parties (such as Coral) have alleged that granting certain proposals of Applicants, (e.g., consolidation of the SoCalGas/SDG&E core portfolios) would increase SoCalGas' market power. In testimony and through cross examination, various parties have introduced the issue of market power into the record of the proceeding. Thus, even though Applicants are seeking no Commission determinations of market power in this proceeding, other parties raise market power concerns as a basis for objecting to certain of Applicants' proposals. Opposing parties are entitled to present reasons for their opposition even though Applicants disagree with the merits of those reasons.

For purposes of oral arguments, parties are therefore entitled to use record-based evidence in support of claims that market power would increase-to the detriment of customers-as a result of certain of Applicants' proposals,

provided they do so within the limits of the record of this proceeding. Likewise, even though the record in the Border Price Spike OII is not before the Commission in this proceeding, specific allegations of adverse market power impacts that have been introduced in testimony and through cross examination are properly part of the record in this proceeding. Such evidence is not to be excluded from the record merely because it involves issues that coincidentally happened to be introduced in another proceeding (e.g., the Border Price Spike OII).

On the other hand, however, participants presenting oral arguments shall be strictly prohibited from introducing or relying upon any information that is outside of the evidentiary record in this proceeding (whether from the Border Price Spike OII or other source(s)).

As a basis for formulating a schedule and agenda for an oral argument before a quorum of the commission, the following procedure will apply. Any party interested in participating in the oral arguments shall file and serve a notice to that effect, with the allotment of time the party seeks to make both a direct presentation and for a response to other parties. This filing shall be due on August 23, 2007. It is anticipated that the oral argument will provide an opportunity for separate opening and reply rounds of argument by each participating party. Separate time will be allotted for questions from the commissioners or ALJ. A separate ruling will be issued setting forth the specific schedule and agenda for presentation of final oral arguments.

This matter was submitted upon the filing of reply briefs on July 20, 2007. Pursuant to Rule 13.14, a proceeding shall stand submitted after the presentation of oral argument which may have been prescribed. Accordingly, submission is

hereby set aside pending the presentation of final oral arguments. The proceeding shall stand submitted upon the completion of final oral arguments.

**IT IS RULED** that:

1. The motion of Coral Energy Resources, L.P. is hereby granted for final oral arguments in this proceeding before a quorum of the Commission.

2. As a ground rule for presentation of oral arguments, participants shall be strictly prohibited from introducing or relying upon any information that is outside of the evidentiary record in this proceeding (whether from the Border Price Spike OII or other source(s)).

3. For purposes of oral arguments, parties are entitled to use record-based evidence, including evidence relating to claims that market power would increase-to the detriment of customers-as a result of certain of Applicants' proposals, provided they stay within the record in this proceeding.

4. Any party interested in participating in the oral arguments shall file and serve a notice to that effect, with the allotment of time the party seeks to make both a direct presentation and for a response to other parties. This filing shall be due on August 23, 2007.

5. A separate ruling will be issued setting forth the specific schedule and agenda for presentation of final oral arguments.

6. Submission of the proceeding is set aside pending final oral arguments. The proceeding shall be submitted upon the completion of final oral arguments.

Dated August 15, 2007, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge

### **INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated August 15, 2007, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis